

RULS - AD - 1981 - 320

8/7/81

Court Hearing re: D's request for Order requiring
production of the Option Agreement + other
correspondences on same matter

PGS - 8

S-7364

WINNE, BANTA & RIZZI
25 East Salem Street
Hackensack, New Jersey 07602
(201) 487-3800
Attorneys for Plaintiff

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: SOMERSET COUNTY

LEONARD DOBBS, :
 :
 Plaintiff, :
 :
 v. :
 :
 TOWNSHIP OF BEDMINSTER, a :
 municipal corporation, :
 :
 Defendant :
 :
 ROBERT R. HENDERSON, DIANE M. :
 HENDERSON and HENRY ENGELBRECHT, :
 :
 Defendants-Intervenors: :

DOCKET NO. L-12502-80

CIVIL ACTION

ORDER

RULES - AD - 1981 - 320

THIS MATTER having been opened to the Court by
Vogel & Chait, attorneys for defendants-intervenors Robert
R. Henderson, Diane M. Henderson and Henry Engelbrecht
(Thomas F. Collins, appearing) on application for an Order
requiring production of the Option Agreement entered into
by plaintiff in connection with the property which is the
subject of the above-referenced litigation, and McCarter
and English, attorneys for defendant Township of Bedminster
(Joseph Falgiani appearing), joining in such motion, and by
Winne, Banta & Rizzi, attorneys for plaintiff Leonard Dobbs

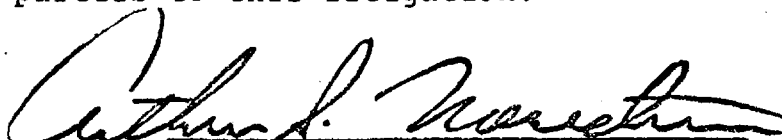
(Donald A. Klein appearing), by cross-motion for a Protective Order with respect to production of said Option Agreement, and upon consideration of the briefs and affidavits submitted, and the arguments of counsel, and good cause having been shown therefore;

It is on this 7th day of Aug. , 1981

ORDERED that plaintiff shall not be required to make production of the Option Agreement as long as the stay entered in this matter by the Honorable Robert E. Gaynor by Order dated July 17, 1981 is in effect; and it is further

ORDERED that after such stay is dissolved, plaintiff shall be required to produce the Option Agreement only to the Court in camera for determination as to whether any portions of said Option Agreement are relevant to the issues in this litigation; and it is further

ORDERED that in the event the Court, after its in camera inspection, determines that any portions of the Option Agreement are relevant to the issues in this litigation that only such portions of the Option Agreement be excised and produced to the then parties to this action, subject to a Protective Order that such excised portions be used only in connection with this litigation and be disclosed to no one other than the parties to this litigation.


Arthur S. Meredith, J.S.C.

REC'D AT CHAMBERS

5.7364

SEP 8 1981

JUDGE MEREDITH

VOGEL AND CHAIT
A PROFESSIONAL CORPORATION

Attorneys at Law

August 7, 1981

MAPLE AVENUE AT MILLER ROAD
MORRISTOWN, NEW JERSEY 07960
538-3800
AREA CODE 201

HERBERT A. VOGEL
ARNOLD H. CHAIT
ENID A. SCOTT
ARON M. SCHWARTZ
THOMAS F. COLLINS, JR.

HAROLD GUREVITZ
OF COUNSEL

Honorable Arthur S. Meredith
Court House
Somerville, New Jersey 08876

Re: Dobbs v. Township of Bedminster
Docket No. L-12502-80

Dear Judge Meredith:

By way of this letter, I am hereby notifying the court pursuant to Rule 4:42-1b of my objections to the form of Order proposed by Mr. Klein in the above-referenced matter. My objections are the same as the objections of the defendant Township of Bedminster and I concur in the form of Order proposed by Mr. Falgiani, on behalf of the defendant Township of Bedminster.

It is my understanding that the court ordered that the plaintiff produce the option agreement to the court after the termination of the stay and that the court could review the document in camera for determination as to whether the entire agreement and/or portions of the agreement would be made available to the parties in the action. I did not, however, understand the court to be ordering that a protective order be put into effect with respect to any portions of the agreement and therefore I cannot agree with the third paragraph of the proposed form of Order prepared by Mr. Klein.

Thank you for your attention.

Respectfully yours,

VOGEL and CHAIT
A Professional Corporation
Attorneys for Defendant-Intervenors

Thomas F. Collins, Jr.
THOMAS F. COLLINS, JR.

TFC/aeo

*8/7 Order signed
by ASM*

McCARTER & ENGLISH
ATTORNEYS AT LAW
550 BROAD STREET
NEWARK, N. J.
07102

5-7364
REC'D AT CHAMBERS
SEP 8 1981
JUDGE MEREDITH

AREA CODE 201
622-4444

August 7, 1981

Re: Dobbs v. Township of Bedminster
Docket No. 12502-80

Honorable Arthur S. Meredith
Somerset County Court House
Somerville, New Jersey 08876

Dear Judge Meredith:

We object to the form of Order that plaintiff submitted to the Court pursuant to the motions heard before your Honor on July 31, 1981. As set forth below, we believe that plaintiff's form of Order contains provisions which were not included in Your Honor's oral decision.

Defendant-Intervenors, joined by defendant Township of Bedminster, brought a motion to compel discovery of plaintiff's contract of sale for land in Bedminster Township as required by the Pretrial Order. Plaintiff brought a cross-motion for a Protective Order to prohibit or control disclosure of the contract.

It is our understanding of Your Honor's ruling on these motions that

- (1) discovery of the contract shall be stayed, along with all other discovery, pursuant to the Order of Judge Gaynor entered on July 17, 1981; and
- (2) when the stay is lifted, plaintiff shall present the contract to the Court in camera to determine whether the contract is discoverable and whether any form of Protective Order shall be entered.

8/7 - Order submitted
by plaintiff's atty
signed by ASM

Plaintiff's form of Order indicates that Your Honor has already issued a Protective Order. It also limits the discretion of the Court which will conduct the in camera review. We do not believe that this Order reflects Your Honor's ruling.

We direct our most serious objections to the third paragraph of plaintiff's form of Order. The proposed third paragraph orders that:

(1) following the in camera inspection by the Court, only those portions of the contract which are "relevant to the issues in this litigation" shall be excised and produced to the parties, and

(2) these parts shall be "subject to a Protective Order that such excised portions be used only in connection with this litigation and be disclosed to no one other than the parties in this litigation."

We did not understand the Court to rule in this manner. Although the Court noted that excision of pertinent terms of the contract and restrictions on publication of those terms might be appropriate following the in camera review, the Court did not order these restrictions at this time. Indeed, such an Order would be highly unusual since the Court has not yet seen the contract and does not know whether it deserves any protection at all.

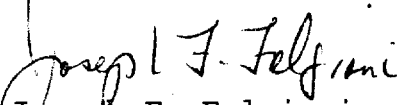
Your Honor's decision essentially postponed consideration of any Protective Order until after the stay is lifted and after the in camera review. We believe that plaintiff's form of Order distorts this ruling by creating a Protective Order where Your Honor did not intend one.

We also object to plaintiff's attempt to limit the in camera review to a determination of "relevant" provisions of the contract. We noted nothing in Your Honor's ruling that limited the discretion of the Court which will conduct the in camera review. Moreover, relevancy is not the test of discoverability. Any information that appears reasonably calculated to lead to discovery of admissible evidence is discoverable. R. 4:10-2(a).

We enclose a form of Order which we believe incorporates Your Honor's rulings on these motions. Our form of Order provides for a time limit of ten days after the stay is lifted within which plaintiff must submit his contract of sale to the Court for in camera review. Although a specific time limit was not

discussed at oral argument, we ask the Court to order this limit to insure that discovery will not be delayed any further once the stay is lifted.

If there is no objection by other parties and our proposed Order meets with your approval, we ask that you execute and return it to us for filing in the enclosed reply envelope.

Very truly yours,

Joseph F. Falgiani

JFF:bjg
Enclosure
cc: Joseph L. Basralian, Esq.(r. mail)
Herbert A. Vogel, Esq. (r. mail)

HAND DELIVERED

McCARTER & ENGLISH
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Newark, New Jersey 07102
(201) 487-3800
Attorneys for Defendant

LEONARD DOBBS, : SUPERIOR COURT OF NEW JERSEY
Plaintiff, : LAW DIVISION - SOMERSET COUNTY
 : DOCKET NO. L-12502-80
-vs- :
TOWNSHIP OF BEDMINSTER, a : Civil Action
municipal corporation, :
Defendant, : ORDER
ROBERT R. HENDERSON, DIANE M. :
HENDERSON and HENRY ENGELBRECHT, :
Defendants-Intervenors. :

THIS MATTER having been opened to the Court by Vogel,
Chait & Roettger, Esqs., attorneys for defendants-intervenors
Robert R. Henderson, Diane M. Henderson and Henry Engelbrecht
(Thomas F. Collins, appearing) on motion for an Order requiring
the production of plaintiff's Contract to purchase the land which
is the subject of this lawsuit, (hereinafter "Contract") and by
McCarter & English, Esqs., attorneys for defendant Township of
Bedminster (Joseph F. Falgiani appearing), joining in such motion,
and by Winne, Banta and Rizzi, Esqs., attorneys for plaintiff
Leonard Dobbs (Donald A. Klein appearing) on cross-motion for a

Protective Order with respect to plaintiff's Contract, and the Court having considered the briefs and affidavits submitted and the arguments of counsel, and good cause appearing,

IT IS on this day of 1981,

ORDERED that plaintiff shall not be required to produce the Contract as long as the stay entered in this matter by the Honorable Robert E. Gaynor by Order dated July 17, 1981 is in effect; and

IT IS FURTHER ORDERED that within ten (10) days after such stay is dissolved, plaintiff shall present the Contract to the Court in camera for a determination of whether the Contract or any parts thereof shall be subject to a Protective Order or shall be produced immediately in discovery.

ARTHUR S. MEREDITH, J.S.C.